

United States District Court
Southern District of New York

UNITED STATES OF AMERICA,

- against -

05 Cr. 495-06 (JGK)

JUAN CARLOS HERRERA GOMEZ,

MEMORANDUM OPINION AND
ORDER

Defendant.

JOHN G. KOELTL, District Judge:

The above-captioned defendant has moved for a return of his property, specifically \$4,705 in currency and various documents. This Court has previously determined that it would treat the defendant's motion as a civil complaint for equitable relief under Rule 41(g), and that it would treat the government's response as an answer and a pre-discovery motion for summary judgment.

The Government has now established that the \$4,705 seized at the time of the defendant's arrest was administratively forfeited. Letter of the Government Dated Oct. 18, 2011, Ex. A (Declaration of Administrative Forfeiture, Dated November 25, 2005). Therefore, the Government is entitled to summary judgment that the defendant is not entitled to the return of this property. 21 U.S.C. § 881(a)(6).

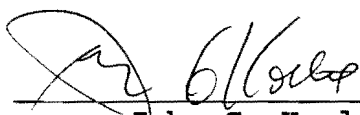
The remaining items seized were documents. Some of these the Government contends were drug ledgers and will not be returned because they are contraband or instruments of the crime for which the defendant was convicted. See 21 U.S.C. § 881(a)(5) ("All books, records, and research . . . used, or intended for use, in violation of this subchapter" are subject to forfeiture). The Government represents that the remaining documents will be returned to the defendant.

If there is any dispute with respect to these items, the parties should advise the Court within 45 days. If the parties do not advise the Court of any continuing dispute within 45 days, the Court orders that the request for any remaining items be denied without prejudice as moot.

The Clerk is directed to close Docket Number 203 without prejudice to reopening in 45 days.

SO ORDERED.

Dated: New York, New York
November 14, 2011



John G. Koeltl
United States District Judge